

NEWS LETTER

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CONTENTS

- THE NATIONAL COMMISSION PRESENTED ITS ACTIVITIES REPORT FOR 2008
- 15/2009 Case of César Antonio Gómez, Arturo Sotelo González and Raúl Palacios Campos
- 16/2009 Case of the detention and transfer of journalist Lydia Cacho Ribeiro
- 17/2009 Case of Honduran migrant BIB
- 18/2009 Case of Rodolfo Sandoval García and Sergio Huerta Tena, in the Municipality of La Huacana, Michoacán
- 19/2009 Appeal of Mr. Raúl Ramos Cordero
- 20/2009 Case of Mr. Alberto Amaya Arellanes
- 21/2009 Case of Mr. Daniel Velázquez Peña
- 22/2009 Case of A1
- NATIONAL AFFAIRS
- INTERNATIONAL AFFAIRS

THE NATIONAL COMMISSION PRESENTED ITS ACTIVITIES REPORT FOR 2008

On March 20th 2009, National Ombudsman, Dr. José Luis Soberanes Fernández, stated that, while substantial and promising progress in the general recognition of fundamental rights throughout the country has been obtained, at the same time, the increase in cases of open violations to established guarantees within our legal order is to be regretted. Dr. Soberanes Fernández added that, in light of the current global economic crisis, our nation must necessarily to commit to a project of legality and justice.

During the presentation of the 2008 Report of the National Commission of Human Rights (Spanish initials – CNDH) before President Felipe Calderón Hinojosa, as established by Incise B, of Constitutional Article 102, Soberanes Fernández added that, even in extremely challenging times, such as these, simultaneously generated by the economic crisis and the cases of violence that currently terrorize most of México's citizens, we must make certain that fulfillment of the law prevails, as opposed to more lack of observance. "Losing the compass of Democracy," he said, trying to reaffirm his direction "is not feasible."

In the event conducted in the "Adolfo López Mateos" Hall, located in the official Presidential Residency of Los Pinos, before the presence of members of the Presidential Cabinet, holders of State Commissions of Human Rights and members of the CNDH's Consulting Council, Dr. Soberanes Fernández demanded a stop to a criminality that has gone out of control; a situation that has become a threat to social peace, which has also demanded for the country's military to conduct police duties that should not be of their competence.

"This (military) presence," he pointed out, "should be temporary. It is an exception that must not become routine, unless we are willing to accept that a national project sketched in our Constitution becomes undone. This is something, I'm sure, that nobody wishes to see."

He assured that the CNDH is not the adversary or rival to beat or defeat, but rather an autonomous institution of the Mexican State, whose function is fulfilled by the technical and professional work conducted by the institution; duties that, on many occasions, have been worthy of public recognition.

He thanked the Chief of the Executive and said that his qualities as a lawyer and as a man of Democracy have always led for the President to receive the requirements of the National Ombudsman and its Consulting Council with a positive reaction.

The following is a recap of main activities conducted during the event.

COMPLAINTS AND RECOMMENDATIONS

During 2008, the CNDH received 6 thousand and 4 complaints on alleged violations to human rights. The National Secretary of Defense (Spanish initials – SEDENA) led the number of complaints, 1,230 in all, followed by the National Institute of Social Security (Spanish initials – IMSS) with one thousand and 7. Next in line were: the Attorney General's Office of the Republic (Spanish initials – PGR) with 769 complaints; the Federal Police Attorney's Office (Spanish initials – PFP) attached to the Secretary of Public Safety, with 284; the National Immigration Institute (Spanish initials – INM), with 258; the Institute of Health and Social Security for Workers of the State (Spanish initials – ISSSTE), with 256; the National Secretary of Education (Spanish initials – SEP), with 237; the Detached

Administrative Body for the Prevention of Crime and Social Rehabilitation, 216; the Federal Secretary of Public Security (Spanish initials – SSP Federal, 191, and the Fund for Health and Social Security for Workers of the State (Spanish initials – FOVISSTE), with 189.

Of the 67 total recommendations issued by the CNDH during 2008, most were addressed to: SEDENA, 14, the INM, 7, and the SSP Federal, with 5.

The PGR and the state governor's offices of Baja California, Sinaloa and Guerrero rejected recommendations; a fact that provoked other authorities to ignore their responsibilities, thus leaving open conduits for impunity and offenses to the respect of fundamental rights.

PUBLIC SAFETY

In 2008, Public Safety continued to be one of the most delicate challenges our country has faced in recent history. In order to fight delinquency, several sectors of Mexican society demanded for more effective measures to be put in place. In August, the CNDH and 29 additional public state human rights institutions signed the National Security Agreement for Justice and Legality. At the same time, the Second Special Report on the Effective Exercise of the Right to Public Safety was presented: a document provided with five working plans based on the need to re-evaluate the efficiency of the national strategy for public safety, including the promotion of effective and integral policies for the prevention of crime and actions that seek to regain society's trust in institutions dedicated to the administration and procurement of justice.

TORTURE

The CNDH accepted an invitation extended by the Mexican Government to become the National Mechanism for the Prevention of Torture. In order to assume the international commitment that México accepted, the CNDH celebrated collaboration agreements with the Human Rights Commissions for the States of Campeche, Coahuila, Durango, Jalisco, Querétaro, Tabasco and Yucatán. In addition, the President of the National Commission spoke before the Commission of the Senate of the Republic of the Federal District, in order to present an explanation of the First Report of the National Mechanism that was based on supervision visits conducted on detention centers, where he provided an account of the deplorable conditions under which ten detention centers located in the country's capital city operate.

MIGRANTS AND SLAVERY

Unemployment, deficient education and health, increasing insecurity and the need for better overall life conditions has led to increased immigration from México. The fact that México has currently become a haven for the transit and destination of migrants helps facilitate abuse committed against them. Among the most relevant actions conducted to fight this situation are the creation of the Regional Committee for México and the Caribbean against Slavery and the creation of regional committees against slavery in Tijuana, Nogales, Aguascalientes and Campeche, in addition to meetings that the National Ombudsman has held in countries such as El Salvador and Honduras. Also collaboration efforts sustained with civil and social organizations have increased. More than 500 thousand Mexicans have tried to migrate to the United States of America over the last five years and, over the last decade (1998-2008), more than five thousand people have died in their efforts to get across the border.

OFFENSES AGAINST JOURNALISTS

One of the most serious threats currently facing liberal democracies is an arbitrary limitation of freedom of speech. In México, more and more journalists have become the target of threats, intimidation, persecution, assassination attempts, abductions; some have actually been murdered, all because of their profession. The CNDH has noted that progress has been made in the de-penalization of offenses such as libel and slander. Also, professional secrecy for journalists before Federal Courts has been established and is currently required in all 32 of the country's states. Nonetheless, the Mexican State must assure that its obligations to conduct efficient investigations in the cases of murders and other violent acts committed against journalists are fulfilled, since neglecting this responsibility would be akin to yielding before impunity. During the period featured in the report, six cases related to alleged violations to the human rights of journalists were officially ratified and the intervention of the legal power of attraction was required for an additional eight cases.

VIOLENCE AGAINST WOMEN

The CNDH warned that the behavioral patterns typical of male domination are still strongly imbedded in some of our country's regions; a situation that has led the Commission to insist that the three orders of government must work together in order to sanction any generation of violence. In spite of all the progress obtained thus far, Mexican society is still far from achieving a state of equality where discrimination against women becomes non-existent.

ATTENTION TO CRIME VICTIMS

The physical, psychological and patrimonial damage of crime victims is still suffering from the after-effects of damages sustained. The CNDH has insisted that the fundamental rights of those who become direct victims of delinquency needs to be analyzed, so that better knowledge on the real fulfillment of laws can be gained, as well as to gain insight on short, medium and long range perspectives. Only by effectively fulfilling said laws will the damage be properly repaired and other fundamental rights of the victims properly reinforced.

UNCONSTITUTIONAL ACTIONS

By exercising the power granted by Incise g), Fraction II of Constitutional Article 105, the CNDH has promoted knowledge of unconstitutional actions against reforms to the Penal Code for the Federal District and additions made to the Law of Health for said federal entity. Charges against unconstitutional action were presented in order to help safeguard the fundamental rights of under-aged delinquents in the State of Guerrero; an action motivated by a notorious breach of the Reform to the General Constitution of the Republic, which established an integral justice system for adolescents; a law that has not been yet fulfilled by the authorities of said state.

EDITORIAL PRODUCTION

The CNDH conducted the editorial production of one million, 743 thousand, 147 copies of publications containing different topics, most of them informational and training materials related to fundamental guarantees, their fulfillment, and cases and causes related to them.

RECOMMENDATIONS

The following is a recap of recommendations issued by the CNDH during the month of March. A complete version can be found on the Commission's official website.

Recommendation 15/2009

March 3rd 2009

Case: Of César Antonio Gómez, Arturo Sotelo González and Raúl Palacios Campos

Responsible Authority: National Secretary of Defense

On April 5th 2008, the National Commission received a complaint filed by Mrs. Cristina Ramírez Castro and Mrs. María Guillermina González, stating that, on April 1st 2008 at 00:31 hours, César Antonio Gómez, Arturo Sotelo González and Raúl Palacios Campos, all agents attached to the Municipal Police Department of Juárez Chihuahua, received a call for intervention through Emergency Service 066 for Public Safety. In order to attend the call, they climbed on a pick-up truck, activated turret and sirens and, as they had reached the place known as "Puente de Zorro", a military convoy approached their vehicle from the left. Without foreword or warning, the members of the military convoy opened fire at the police vehicle and as result of the attack, Mr. César Antonio Gómez, the driver of the police vehicle, was seriously wounded. The complaint stated that after the police vehicle was pulled over, the members of the military convoy stripped its passengers of all of their possessions, placed the victims on military vehicles and transferred them to the facilities of the military garrison located in Ciudad Juárez. Once there, the victims where presented before the agent attached to the Public Attorney's Office of the Federation, who then brought them before the Fourth District Magistrate for the State of Chihuahua.

Motivated by the facts mentioned above, the National Commission initiated complaint file number CNDH/2/2008/1736/Q. Legal-logical analysis of evidence found within the file led to conclude that the use of public force and firearms was excessive and that violations to the rights of life and physical integrity were committed. Said facts can be attributed to public officials of the 33rd Battalion of Infantry attached to the National Secretary of Defense, since on April 1st 2008, the aforesaid officials opened fire against Messrs. César Antonio Gómez, Arturo Sotelo González and Raúl Palacios Campos, before detaining them. Said actions were allegedly based on the assumption that the members of the military convoy found the official vehicle of the Juarez Municipal Police suspicious, leading to the subsequent aggression and detention, as the military convoy decided to open fire against the police vehicle.

Securing of the victims did not occur in the manner described by the personnel attached to the Mexican Army in charge of the detainees. In accordance to official statements pronounced at 07:50 hours on April 1st 2008, the personnel in charge of the detention claimed that a convoy comprised of nine military vehicles participated in the facts and that the reason they opened fire against the vehicle of the Municipal Police of Juárez was in response to an alleged attack. However, no proof to support the latter has been presented before the agent of the Public Attorney's Office. It should also be noted that the National Commission asked the pertaining authority for specific information on the case, failing to obtain any evidence whatsoever.

The excessive, and thus improper, use of force and firearms on the part of the military personnel involved on the case produced serious injuries to Mr. César Antonio Gómez; a fact that put the victim's life in danger, according to a medical report issued by an official inspector attached to the Attorney General's Office of the Republic on April 2nd 2008. With regards to Messrs. Arturo Sotelo González and Raúl Palacios Campos, the medical specialist concluded that both victims presented lesser injuries that would heal in no more than two weeks. However, the contents of this medical report do not lessen the fact that an attempt was made on the lives of both

men, with the use of lethal weapons and no justification whatsoever. In addition, no evidence has been found to help sustain the version which claims that the shots fired from military vehicles or by military personnel was in response to prior aggression against them; a fact that constitutes an act of abuse of power, which in turn translates into a clear violation to human rights.

As a consequence, the National Commission issued Recommendation 15/2009 on March 3rd 2009, addressed to the Holder of the Secretary of Defense. Basically, the Recommendation points out that all necessary actions must be taken in order to repair any and all physical, psychological and medical damage sustained by Messrs. César Antonio Gómez, Raúl Palacios Campos and Arturo Sotelo Gómez. Damage must be repaired through a health institution, until the victims are fully recovered. In addition, an investigative administrative procedure against the military personnel involved in the facts that led to this Recommendation must be initiated.

The agent of the Military Public Attorney's Office attached to the Military Garrison of Ciudad Juárez responsible for the integration of initial investigation GN/CD.JUÁREZ/013/2008, must take the points included within the Observations Chapter of this Recommendation into consideration. The National Commission must be kept properly informed on all procedures concerning said legal investigation, from the moment it is integrated and perfected until a final resolution is reached. In addition, the National Commission must be kept properly informed of all measures to be taken in order to guarantee that similar actions never take place again.

At the same time, it was recommended that instructions are issued so that all members of the Mexican Army currently participating in the application of the Federal Law for Firearms and Explosives, as part of joint operations currently being conducted in the State of Chihuahua in the constant struggle against drug trafficking, receive proper training so that all operations and actions are conducted with strict adherence to the law and to human rights: the respect to the rights to life, personal integrity and safety must be guaranteed. As established by the contents of General Recommendation Number 12/2006, military personnel must be properly trained in the use of firearms and superior officers commissioned by the Secretary of Defense for support or collaboration in such procedures must be included in all training activities. Instructions must be issued to whom it may concern, so that in any subsequent procedures, all personnel attached to the National Secretary of Defense may provide timely and complete attention to any and all requirements formulated by the National Commission of Human Rights.

Finally, it is recommended that any and all procedures are conducted so that the material damages sustained by the victims' vehicle, property of the Police Department of the Municipal Office of Juárez, Chihuahua, is properly repaired.

Recommendation 16/2009

March 6th 2009

Case: Of the detention and transfer of journalist Lydia Cacho Ribeiro

Responsible Authority: Constitutional Governor's Office of the State of Puebla and Constitutional Governor's Office of the State of Quintana Roo

As established by and in strict adherence to Article 102, Incise B of the Mexican Constitution, the National Commission of Human Rights has found enough evidence to determine that journalist Lydia Cacho Ribeiro was subjected to acts of torture, independent from the resolution issued by the Supreme Court of Justice of the Nation. Mrs. Cacho Ribeiro was the victim of physical and psychological abuse that turned out to be extremely traumatizing. In addition, the victim presented symptoms related to the sequels produced by acts of violation committed against a person's dignity. Therefore, the Commission issued Recommendation 16/009, addressed to the Governors of the States of Puebla and Quintana Roo: Mario P. Marín Torres and Félix Arturo González Canto, respectively.

The exhaustive documentation and analysis of evidence, independent to the procedure conducted by the Supreme Court of Justice of the Nation, helped the CNDH to establish that important administrative irregularities were also committed in this case, as the Attorney General's Office of the State of Quintana Roo allowed for the detention of Mrs. Cacho Ribeiro, even before the Agent of the Public Attorney's Office of Quintana Roo received the collaboration file produced by the General Attorney's Office of the State of Puebla, which asked for the detention and transfer of the female journalist.

At the same time, the investigation conducted by the CNDH establishes that private parties not attached to the Public Attorney's Office or its auxiliary bodies participated in the detention and transfer of the female journalist from Quintana Roo to Puebla. Additionally, it has been established that, at no time during the 20 hour ground trip, was the victim allowed to consume the adequate medication prescribed to her in order to help contain an open case of pneumonia; a case for which medical evidence existed. Also, the personnel in charge of the victim kept asking if she knew how to swim, suggesting that she may be thrown into the sea.

On the other hand, it is also possible to determine that the conduct displayed by public officials against the journalist constitutes a violation to her right to freedom of speech; a situation that became more apparent due to the fact that the victim had published a book in which she named her accuser openly. When combined, all of the aforementioned circumstances constitute an indirect suppression to free speech.

It should be noted that Recommendation 16/2009 states matters that differ from those analyzed in file 2/2006, issued by the Supreme Court of Justice of the Nation; a file opened in order to investigate grave violations against individual guarantees. However,

Constitutional Article 97, Second Paragraph, establishes that any previous pronouncement shall be no obstacle for other bodies of the State to conduct their pertaining attributions, regardless of their nature.

Legal-logical analysis of the facts and evidence that comprise complaint file 2005/5290/5/Q, state that agents attached to the Judicial Police Departments of the States of Puebla and Quintana Roo who participated in the execution of the apprehension order issued against Lydia Cacho Ribeiro, violated the victim's fundamental rights to legality, legal safety and, personal safety and integrity, in addition to the rights to the protection of health and freedom of speech. The public officials attached to the aforementioned bodies committed acts of torture, intimidation, threats and mistreatment, as well as other acts and omissions that violated the victim's rights to legality, legal safety, personal safety and integrity, protection of health and freedom of speech.

The Governor of Puebla has been requested to repair the damage caused to Mrs. Cacho Ribeiro and the State's Internal Treasury Inspector's Office must investigate and sanction any and all agents attached to the Judicial Police that participated in the detention of Mrs. Cacho Ribeiro. Also, an initial administrative investigation procedure must be conducted in order to determine said agents' penal responsibilities. At the same time, actions meant to prevent torture, such as proper training concerning human rights and freedom of speech for agents attached to the Judicial Police, as well as to public officials attached to the Governor's Office of the State of Puebla, must be established, so that they may adhere to legality and prevent any acts or pronouncements that may implicate any and all violations to human rights in all of their duties.

The Governor of Quintana Roo has been requested to order the Internal Treasury Inspector's Office to conduct an investigation to help determine any and all administrative and penal responsibilities attributable to the agent attached to the Judicial Police of the State of Quintana Roo who participated in the detention of Mrs. Cacho Riveiro. The Attorney General's Office of the State must initiate an administrative investigation procedure based on charges of omission against any and all agents attached to the Judicial Police who assisted their colleagues from the State of Puebla from the moment they left Cancún, since they failed to report their involvement with a detention and transfer operation.

The Recommendations issued by the CNDH do not seek to discredit any institution whatsoever, nor do they constitute any kind of offense or aggression against institutions or their respective holders. Quite the contrary; Recommendations seek to perform as instruments indispensable to the strengthening of any and all democratic states or society; an achievement that can be obtained whenever authorities and public officials adhere to recommendations and assume their responsibilities before society at large; it is sort of legitimacy that becomes progressively stronger whenever involved parties perform their duties in accordance to the law and to the criteria applied to justice that shall lead to respect for all human rights.

On December 16th and 19th 2005, Mr. José Cacho Ribeiro filed a complaint before the CNDH based on the detention of Mrs. Lydia Cacho Ribeiro, journalist and President of the "Integral Center for the Attention of Women and their Children (a civil society)" located in Cancún. The complaint was filed against two agents attached to the Judicial Police Department of the State of Puebla and one agent attached to the Judicial Police Department of the State of Quintana Roo in charge of a warrant issued for the apprehension of the victim by the Fifth Penal Judge of the City of Puebla.

Analysis of the victim's psycho-medical-victimizing valuation and its further enhancement – conducted by experts in the study of victims, psychology and, legal and forensic medicine appointed by the Attorney General's Office of the Republic – made it possible to determine that, during the time spent under detention and transfer from Cancún to Puebla – on December 16th and 17th 2005 –, journalist Cacho Ribeiro suffered physical alterations produced by "the emotional stress that she was subjected to during that period, suspension of medical treatment, exposure to sudden climactic changes, and insufficient consumption of food and beverage. In addition, the fact that the victim was placed in a very secluded space prevented her from being in comfortable position during the 20-hour trip", among other circumstances.

In the opinion of expert valuator, "the vulnerable and defenseless position in which journalist Lydia Cacho Ribeiro found herself in was such that it created physical and psychological suffering in the form of despair, confusion, doubt and stress. Together, said circumstances also led to reactions of fear, anxiety and terror, as she was forced to travel approximately 1,472 kilometers on the ground, for an approximate 20 hours."

Upon reception of this Recommendation, recipients will have a period of 15 working days to deliver their response. An additional period of 15 working days has been given so that they may produce proof that the Recommendation is being fulfilled. However, failure to produce the latter will lead the CNDH to interpret that the Recommendation was rejected, thus allowing the Commission to go public with this case.

Recommendation 17/2009
March 6th 2009
Case: Of Honduran migrant BIB
Responsible Authority: National Immigration Institute

On June 23rd 2007, personnel attached to the Municipal Management Office for Public Safety of Tenosique, Tabasco, came to the aid of a local inhabitant, after receiving a telephone call for assistance. Police intervention led to the detention of Honduran migrant BIB, who had broken into the accuser's private home. At the moment of the apprehension, the agent in charge of the operation realized that the Honduran woman seemed to be mentally challenged. She was then transferred to the facilities of the local municipal authorities and later, to the Municipal Hospital of Tenosique, Tabasco, where the medic in charge of evaluation diagnosed the victim with "schizophrenia" and prescribed her with medication.

On June 26th, the Municipal Management Office for Public Safety of Tenosique, Tabasco, pretended to place migrant BIB under the charge of the local Sub-delegation of the INM, failing in turn to present the victim before migration authorities. It was said that, due to her condition, public safety authorities did not have a proper place to secure the female immigrant. The next day, personnel attached to Beta Group transferred and put migrant BIB under the charge of the INM's Sub-delegation located in Palenque, Chiapas, where once again, she was evaluated by a doctor, who confirmed the previous diagnostic, stating that the victim suffered from a behavioral disorder (schizophrenia). At the same time and in spite of the victim's mental condition, personnel attached to the INM conducted a migratory administrative procedure, based on a format called "voluntary application for deportation, subject to migratory administrative procedure or asylum."

Next, the victim was transferred to the INM's migratory station in Tapachula, Chiapas. Later on, she was finally brought out of the country and delivered to the Guatemalan National Police on June 30th.

Legal-logical analysis of evidence contained within file 2007/2959/5/Q led the National Commission to establish violations to the rights of legality and legal safety, as well as due process for migrant BIB; all acts, attributable to public officials attached to the National Immigration Institute of Tenosique, Tabasco, Palenque and Tapachula, Chiapas. Personnel attached to the INM in Tenosique, Tabasco refused to receive the victim, claiming that the migrant's medical condition (schizophrenia), as described in the medical certificate presented by the agents of the municipal public safety responsible for placing her under the charge of the INM, prevented the Institute from receiving her. The Commission believes it extremely important to add that, regardless of her condition, the personnel of the INM was under the obligation of securing the female migrant. However, not only were they obliged to secure the victim, but they were also under the obligation of providing her with all the medical attention that she may have required. For such matters, the responsible migratory authorities had to put into effect the powers of regulation and migratory vigilance provided to them by: Articles 7, Fraction II, 16, 151 and 152 of the General Population Law; Articles 89, 90, 91, Fraction I, Incise a); 99, 134, 195 and 195 of said Law's Rulebook.

Derived from procedures conducted by personnel attached to the General Consulate of Honduras in Tapachula, Chiapas, members of the Beta Group transferred the victim and placed her under the charge of the Sub-delegation of the INM located in Palenque, Chiapas. Despite having previous knowledge of the migrant's mental condition, the personnel of the INM called for the voluntary deportation instrument, notwithstanding the fact that the victim had no legal means to make any decisions concerning her own well-being. Nonetheless, a document that lacked any consent, due to the victim's mental condition, was produced and legally recognized, leading to the eventual deportation of the victim by personnel attached to the INM, on June 30th, 2007.

As a consequence, the National Commission considered that the personnel attached to the National Immigration Institute failed to provide migrant BIB with the exceptional attention that her condition required, in spite of being under obligation to do so; a situation defined by Article III, Point Three, of the Memorandum for Mutual Understanding established between the Governments of México, El Salvador, Guatemala, Honduras and Nicaragua for the respectful, disciplined, agile and secure ground deportation of Central-American migrants. Under the aforementioned treaty and based on the victim's mental condition, migratory authorities were under the obligation of providing the victim with special attention, different to that which the rest of the population receives.

Therefore, on March 6th 2009, the National Commission issued Recommendation 17/2009, addressed to the Commissioner of the National Immigration Institute, recommending the following: Instructions are to be issued to whom it may concern, so that the Internal Control Body attached to the Secretary of Public Functions of the National Immigration Institute may initiate the pertaining administrative procedure against all public officials of the institution that were involved in the facts mentioned within this document. At the same time, an audit of all current administrative migratory procedures must be conducted, in order to determine the current migratory situation of all mentally challenged migrants and so that any and all corrective measures to avoid violations to human rights of secured migrants may be avoided. Finally, all public officials attached to the National Immigration Institute must be provided with adequate training, so that they may learn about the specific procedures that are to be followed when securing mentally challenged persons.

Recommendation 18/2009

March 17th 2009

Case: Of Rodolfo Sandoval García and Sergio Huerta Tena, in the Municipality of La Huacana, Michoacán

Responsible Authority: Secretary of National Defense

On December 17th 2007, the National Commission received a complaint originally filed by Mrs. Rosa Cruz Castillo before the Human Rights Commission of the State of Michoacán. The complaint was based on several alleged violations to human rights, which occurred approximately at 07:00 hours on December 14th 2007, in the Municipality of La Huacana, located in the State of Michoacán. The

complaint states that personnel attached to the Mexican Army detained Mr. Rodolfo Sandoval García, Mrs. Cruz Castillo's husband, and their neighbor, Mr. Sergio Huerta Tena. Mrs. Cruz Castillo added that two or three days later, she was finally able to see her husband, who had remained in detention at the facilities of the Attorney General's Office of the Republic in Apatzingán, Michoacán. She noticed that both victims had sustained several injuries, which according to her husband, had been produced by military personnel. It was added that, at 00:20 hours, on December 15th 2007, Mr. Sandoval García had been taken before the agent attached to the Public Attorney's Office of the Federation in Apatzingán, under charges of possession of weapons, leading to the opening of initial investigation AP/PGR/MICH/A/300/2007.

Motivated by the aforementioned facts, the National Commission opened complaint file number CNDH/2/2008/98/Q. Legal-logical analysis of gathered evidence led to the conclusion that in this case, the rights of freedom and personal integrity were violated in the form of arbitrary detention, illegal retention and torture of the victims. Said actions are attributable to public officials of the 90th Infantry Battalion of Sarabia, Guanajuato attached to the National Secretary of Defense.

Based on all evidence gathered, the National Commission estimated that the performance of the military personnel involved in the detention of the victims on December 14th 2007 did not adhere to the law. Detention was based on a ground surveillance operation conducted on "two suspicious looking vehicles", a fact that does not provide enough cause or reason for legal detention, since said action was conducted solely on an assumption.

At the same time, the victims were not presented immediately before the agent attached to the Public Attorney's Office of the Federation; a fact that constitutes a serious omission. Although the Commission does recognize that the victims were detained at around 17:00 hours, they were subsequently transferred to the facilities of the 43rd Military Zone in Apatzingán; a situation that constitutes illegal retention, as demonstrated by the initial medical reports formulated in said facilities between 19:00 and 19:20 hours, which demonstrates that the victims underwent medical evaluation under the supervision of A2, a Senior surgeon attached to the Military Infirmary at the aforementioned facilities. Surgeon A2 certified that the victims had suffered "no alterations". Seven hours after initial detention, the victims were finally taken before the agent attached to the Public Attorney's Office of the Federation in Apatzingán; a fact that leads to the conclusion that the detention constitutes illegal retention, which in turn, constitutes a violation to fundamental rights, as established by Articles 14, Second Paragraph, and Article 16, First and Fourth Paragraphs, of the Political Constitution of the Mexican United States.

On the other hand, according to the medical verdict issued by medics attached to the Attorney General's Office of the Republic, as well as to the facts detected by personnel of the National Commission, the victims were subjected to acts of torture; a situation that could coincide with some of the most typical hypothesis established by Article 3 of the Federal Law for the Prevention and Sanction of Torture. The situation must be thoroughly investigated by the pertaining authority so that impunity is not allowed for this case.

As a consequence, on March 17th 2009, the National Commission issued Recommendation 18/2009, addressed to the Holder of the National Secretary of Defense. The Recommendation basically requires that any and all procedures deemed necessary must be taken, so that the physical, psychological and medical damage suffered by Messrs. Rodolfo Sandoval García and Sergio Huerta Tena, may be repaired through psychological, medical and rehabilitation support, thus assuring that their physical and psychological conditions are fully restored. In addition, the Recommendation requests for the initiation of the pertaining administrative investigation procedure against any and all military personnel involved in the material facts contained within the Recommendation.

At the same time, the Recommendation requires for a visit to the Attorney General for Military Justice, so that the agent attached to the Military Public Attorney's Office in charge of the integration of initial investigation 43ZM/020/2008-ADJ may take all observations contained within the Recommendation's Observations Chapter into consideration. A procedure must be initiated against military personnel attached to the 90th Infantry Battalion, including military medical personnel, based on the grounds of offenses committed against Rodolfo Sandoval García and Sergio Huerta Tena. Additionally, any and all measures deemed necessary must be taken in order to prevent that actions such as the ones that led to this Recommendation occur ever again. Instructions must be issued, so that the military personnel attached to the 43rd Military Zone of the Mexican Army, including all medical personnel, receive proper training in order to make certain that any proceeding or act is conducted under strict adherence to the law and to human rights. The respect to life, personal integrity and safety must be guaranteed. Actions such as torture, cruel and degrading treatment must never occur. Finally, the National Commission must receive punctual notice of all of the above when results have been achieved.

Recommendation 19/2009

March 17th 2009

Case: Of a contestation appeal filed by Mr. Raúl Ramos Cordero

Responsible Authority: The Assembly of the LXI Legislature of the Honorable Congress of the State of Veracruz, Honorable Constitutional Municipal Office of Acayucan, Veracruz

On August 4th 2008, the Human Rights Commission of the State of Veracruz ratified a complaint presented by Messrs. Raúl Ramos Cordero and an additional 12 persons originally filed under number 7201/2008. In general terms, the complaint indicated that the aforementioned persons, all former employees in service of the Constitutional Municipal Office of Acayucan, went before the Conciliation and Arbitration Tribunal attached to the Judicial Power of the State of Veracruz, demanding reinstatement and payment

owed them since December 31st 2008; the date when they had been officially let go. In response, Labor file 351/2005/III was opened, establishing a binding decision that demanded for the aforementioned Municipality to pay all pending salaries and benefits. Nonetheless, despite the fact that the Tribunal had dictated the pertaining agreements deemed necessary to reach the binding decision and, although the clerk of the court attached to Special Committee Number Ten for the Local Conciliation and Arbitration Tribunal of the State had pleaded his case before several different authorities attached to the Municipal Office in order to solicit reinstatement and requirements for payment, municipal authorities failed to comply with their orders.

On November 11th 2008, the Human Rights Commission of the State of Veracruz issued Recommendation 94/2008, addressed to the lone trustee and legal representative of the Constitutional Municipal Office of Acayucan, Veracruz. The Recommendation required that any and all proceedings deemed necessary to be conducted, so that resolution points established by the binding decision, along with any further resolutions dictated and recorded as part of labor file 351/2005/III of the Index of the Tribunal for Conciliation and Arbitration of the State of Veracruz, are properly fulfilled. All human and working rights of the victims must be reinstated and restored. Instructions must be issued to the pertaining Control and Vigilance Body so that an administrative procedure is initiated against any and all public officials attached to the Municipal Office of Acayucan responsible for delays and omissions, as they failed to comply with the demands of the binding decision. In addition, the Recommendation requested for the Municipal Office of Acayucan to create an additional budget that may allow them to comply with binding decisions and other analogue, executive resolutions to be issued by pertaining authorities in timely and orderly fashion. However, the Recommendation was not accepted. As a consequence, Mr. Raúl Ramos Cordero filed a contestation appeal against such rejection, which was properly registered under the number CNDH/2/2009/24/RI.

Evidence collected by the National Commission indicates that the offenses stated by the victim were founded and provide cause enough for procedure. It also seems clear that the local State Human Rights Commission proceeded to correctly produce and motivate Recommendation 94/2008, since the Municipal Office of Acayucan, Veracruz failed to comply with the executive binding decision pronounced by the Tribunal for Conciliation and Arbitration of the State of Veracruz. Seeking to proceed against the victims, it has been concluded that such actions constitute a violation to the rights of legality and legal safety, since, by failing to fulfill their duties, municipal authorities are actually depriving victims of their rights. The situation can be translated as lack of observance of the norms established by the current legal system; norms that have been put in place in order to offer certainty and stability so that citizens may exercise and make full use of their rights. Such actions contravene Articles 14, Second Paragraph, and Article 17, Fifth Paragraph, of the Political Constitution of the Mexican United States.

At the same time, it should be noted that information necessary for the integration of the contestation appeal was requested from the Municipal Office of Acayucan. Nonetheless, after a period of 10 natural days established by Article 65 of the Law of the National Commission of Human Rights, municipal authorities failed to provide opportune reply.

Seeking to provide the necessary attention to the established violations, and in accordance to Articles 70, 72 and 73 of the Law of the National Commission of Human Rights, as well as Article 79 of the Political Constitution of the State of Veracruz, the Commission deemed pertinent the intervention of the LXI Legislature of the Honorable Congress of the State of Veracruz, so that the body may determine the actions and omissions described within the contents of the Recommendation; actions and omissions attributable to personnel attached to the Municipal Office of Acayucan. Making use of the powers and attributions granted to the body, the Congress has been required to determine the proper procedure to be followed in accordance to the law and the responsibility of said public officials.

As a consequence, on March 17th 2009, the National Commission issued Recommendation 19/2009, addressed to the Holder of the Assembly of the LXI Legislature of the Honorable Congress of the State of Veracruz, as well as to public officials attached to the Honorable Constitutional Municipal Office of Acayucan, fundamentally establishing the following points:

To the Holder of the Assembly of the LXI Legislature of the Honorable Congress of the State of Veracruz: instructions must be issued to whom it may concern, so that the responsibilities attributable to public officials attached to the Municipal Office of Acayucan, who violated the victims' rights to legality and legal justice, may be established and that proceeding may be determined in accordance to the law. Proof of said procedures must be presented before the Commission in order to establish complete fulfillment.

To public officials attached to the Honorable Municipal Office of Acayucan: instructions must be issued to whom it may concern so that Recommendation 94/2008, issued by the Human Rights Commission of the State of Veracruz on January 8th 2009, is thoroughly fulfilled. Proof of the latter must be delivered before the National Commission and instructions must be also issued to whom it may concern so that in the future, public officials attached to said Municipal Office may provide opportune attention to any and all requirements formulated by the National Commission.

Recommendation 20/2009
March 20th 2009
Case: Of Mr. Alberto Amaya Arellanes
Responsible Authority: Government of the Federal District

In accordance to the legal powers granted to the National Commission and in accordance to current laws, the institution resolved that the expropriation decree for the property where the night club New's Divine used to operate was not produced properly. Also, the victim failed to be properly informed of the situation or about any potential procedure or resolution. Additionally, the human rights to freedom of work, property, legality and legal justice of the persons who used to work in the lower level of said property, in a commercial facility independent from the night club that was equally affected, were violated. Therefore, the National Commission of Human Rights issued Recommendation 20/2009, addressed to the Holder of the Federal District Government, Marcelo Ebrard Casaubón, who did not present a report containing the facts that led to the complaint, as requested by the CNDH.

The National Commission requests for the Holder of the Federal District Government to compensate the victims for the damage derived from irregularities in procedure, publication and execution of the expropriation decree, such as: the freedom to dispose of the furniture that belongs to a beauty parlor; revision of the procedure to issue the expropriation decree that pertains to this case; instructions must be issued to the holders of the Secretary of Government and Social Development, as well as the Council for Legal Affairs of the Federal District, so that the legal lines and dispositions that will lead to an efficient administrative procedure are put into motion and in order to integrate the file related to the expropriation of property in the country's capital, and finally, producing a file to properly inform the property's owners from the start, producing the proofs needed in order to proceed with the expropriation.

The Commission has also asked that the General Treasury Inspector's Office of the Federal District to investigate and determine the responsibilities attributable to public officials that initiated and made all proceedings for the issuing of the expropriation decree, in addition to the public officials that prevented the victims from accessing the beauty parlor from June 21st to July 8th 2008. The Attorney General's Office of the Federal District must conduct the pertaining initial investigation on a possible crime committed by those who prevented the victims from accessing the beauty parlor. Written orders must be issued to personnel attached to the Secretary of Public Safety of the Federal District, so that public officials attached to the institution receive proper training on the responsibilities attributable to authorities in their collaboration for the integration of files and so that they may provide any and all information and documents with regards to this case that the CNDH may ask from them.

On July 30th 2008, the National Commission received a complaint filed by Mr. Alberto Amaya Arellanes, who pointed out that he and his wife, Adelina Hernández Yslas, are the rightful owners of the property located on Street 303, Number 186, in the Nueva Aztlacoalco Community, in the Gustavo A. Madero Municipal District. The top level of the two story building was leased to the New's Divine club, while the ground level floor is where the Sagitario's beauty parlor is located, currently managed by Jenny Amaya Hernández, the owners' daughter.

The victim stated that, after the facts that occurred in the night club, the Government of the Federal District published an expropriation decree to seize the property on the Official Journal of the Federal District on July 7th and July 8th 2008. The victim considers that said measure was arbitrary, since the decree was neither properly founded nor properly motivated. In addition, the victim was not provided with proper legal notice of the administrative procedure, from the very beginning of the procedure, nor did he receive compensation of any kind. Also, the personnel of the beauty parlor were denied access to the facilities and the furniture, which is their property, worth approximately 400 thousand pesos; property that has not yet been returned to its rightful owners.

Therefore, since all of the facts were reported as alleged violations to human rights, attributable to authorities or public officials attached to the Federation and to federal entities, the CNDH initiated procedure on the complaint file. Based on statements established by Articles 3, Second Paragraph, and Article 16, First Paragraph of the Commission's Internal Rulebook, the National Commission decided to act.

The National Commission believes that the Council for Legal Services of the Federal District did not establish the proceedings and integration of the expropriation file in accordance to the law; an action that constitutes a transgression to norms established by the Law of Expropriation and the Law for Bodies attached to the Public Management Office of the Federal District. In addition, the performance of the personnel responsible for the procedure and execution of the expropriation decree failed to adhere to the principles of legality and efficiency in their duties, thus constituting an infraction to the Federal Law of Responsibilities for Public Officials and to the Federal Law of Administrative Responsibilities for Public Officials.

With regards to the beauty parlor, the human rights to freedom of work, property, legality and legal safety were violated, in accordance to Article 5, First Paragraph, Article 14, Second Paragraph and Article 16, First Paragraph, of the Political Constitution of the Mexican United States. Said violations are attributable to public officials attached to the Secretary of Public Safety of the Federal District (Spanish initials – SSPDF), due to the fact that the performance of police agents was completely outside of regulations, because, by preventing the victims from accessing the premises in order to conduct their work, they failed to comply with an official order; an action that goes against regulations established by the Supreme Court of the Nation, which state that authorities may only perform duties allowed to them by the law.

The performance of public officials attached to the SSPDF constitutes a transgression to regulations established by the Mexican Constitution, the Federal Law of Responsibilities for Public Servants and the Federal Law of Administrative Responsibilities for Public Servants. As established by said laws, public officials must fulfill their duties with the highest diligence in any service that is demanded of them and abstain from committing any action or omission that may lead to suspension or deficiencies in public duty. However, public

officials in charge of this case were not provided with an order issued by a pertaining authority nor did they have any legal basis to justify their actions.

The facts described in this Recommendation contradict several international instruments, such as the American Convention on Human Rights and the International Treaty for Civil and Political Rights, which generally state that no person must become the victim of arbitrary or illegal interference with their private lives, their immediate families, their home address, or their correspondence.

Recommendation 21/2009

March 23th 2009

Case: Of Mr. Daniel Velázquez Peña

Responsible Authority: The National Institute of Neurology and Neurosurgery

On June 13th 2008, Mrs. Blanca Estela Velázquez Peña filed a complaint before the National Commission, based on alleged violations to the human rights of her 34 year old brother, Mr. Daniel Velázquez Peña, attributable to personnel attached to the National Institute of Neurology and Brain Surgery. The complaint stated that, on May 21st 2008, the victim underwent surgery to correct strabismus. However, the victim suffered from cardiac arrest that eventually led to a persistent vegetative state.

At the same time, Mrs. Velázquez Peña stated that Doctor SP1 informed her that her brother would be released from the hospital. In addition, the "Head of Medical Services" told Mrs. Velázquez Peña that the patient had been in an "accident"; a fact that Mrs. Velázquez Peña considered quite irregular. Therefore, she requested for the National Commission to investigate the facts to help determine any responsible parties and bring adequate medical attention to the victim.

Legal-logical analysis of evidence gathered within the file demonstrates that, on May 22nd 2008, one day after the surgery, the patient underwent examination which displayed circulation of cerebral cortex flow in diffuse manner. Later, the patient underwent a brain mapping session that showed him to be in an irregular coma, produced by the absence of electric activity in the brain, which led to another brain mapping session for control purposes.

Finally, the contents of clinical reference briefings demonstrated that the patient was diagnosed with: sequels of remitted anoxoischemic encephalopathy; post-operational tracheotomy; limited myoclonic status; post-operational endoscopy gastrostomy; open pneumonia, and the possibility of persistent vegetative state.

Points exposed by the referenced medical authorities led to the intervention of the Coordination of Valuation Services attached to the National Commission. The contents and medical considerations proved that the anoxoischemic encephalopathy suffered by Mr. Daniel Velázquez Peña, the condition responsible for keeping him in a persistent vegetative state, could have been avoided if Doctor SP2, a female medic attached to the Anesthesiology Services of the National Institute of Neurology and Brain Surgery, had warned the doctor in charge of the surgery, female doctor SP3, about the manner in which the patient's heart rate was decreasing during the surgical procedure conducted on May 21st 2008. Nonetheless, failure to report the situation led to the absence of heart beats and subsequent cardiac and respiratory arrest that produced severe lack of oxygen flow to the brain, along with the subsequent neurological damage that produced persistent vegetative state as the consequence.

Finally, it has been established that Doctor SP2, a member of the staff attached to the Anesthesiology Services of the National Institute of Neurology and Brain Surgery, was in breach of lines established by the Official Mexican Norm NOM-170-SSA1-1998 for the proper practice of anesthesia. The norm in question establishes that any and all possible precautions must be taken into consideration whenever a patient is to be subjected to the risks implied by being under the effects of anesthesia, in order to greatly diminish the possibility of any complications derived from the use of anesthesia, such as the ones that affected the victim in this case.

Therefore, the National Commission has been able to establish that Doctor SP2, a member of the staff attached to the Anesthesiology Services of the National Institute of Neurology and Brain Surgery, in charge of the anesthetic procedure under conscious sedation of Mr. Daniel Velázquez Peña on May 21st 2008, failed to comply with dispositions established by: Article 4, Third Paragraph of the Political Constitution of the Mexican United States; Articles 1, 2, 23, 32, 33, 34, Fraction II and Article 51 of the General Health Law, and Article 48 of the Rulebook of the General Health Law in Matters related to the Provision of Medical Services. All of the articles mentioned above clearly establish that each and every patient has the right to the protection of health, through opportune attention, as well as ideal, professional and ethically responsible quality in medical services.

On the other hand, proof found in the medical file of Mr. Daniel Velázquez Peña provided evidence to observe that the staff attached to the National Institute of Neurology and Brain Surgery failed to comply with lines established by the Official Mexican Norm NOM-168-SSA1-1998 of the Medical File, since said file is incomplete, out of sequence, several medical notes have no record of hours, abbreviations are excessive and the signatures of the medics in charge of the patient are missing.

The Commission has not missed the fact that, on February 18th 2009, Mrs. Blanca Estela Velázquez Peña brought the case of her brother, Mr. Daniel Velázquez Peña, to the attention of personnel attached to the institution, informing said personnel of the "persistent vegetative state" that her brother is currently in, while remaining hospitalized in the facilities of the National Institute of Neurology and

Brain Surgery. At the same time, Mrs. Velázquez Peña stated that, on October 2008, she had filed a complaint against the National Institute of Neurology and Brain Surgery before the National Commission of Medical Arbitration (Spanish initials – CONAMED), based on the fact that staff attached to the institute had pretended to release her brother from their facilities. Despite the fact that the personnel attached to the Institute tried to deny any charges of “medical negligence” against the victim, the institution in question came before the CONAMED and agreed to provide the patient with all the medical attention that he could require, as well as to provide the victim’s place of residence with all the necessary equipment. However, none of the above was done. In addition, Mrs. Velázquez Peña considers that his brother has not been provided with adequate medical services, since no tests have been conducted in order to determine any possible “evolution” to his current condition. Likewise, she has confirmed that she herself and her immediate relatives are currently covering all expenses necessary for the different types of medication that the Institute cannot provide for the patient. Medication is extremely expensive and the Velázquez Peña family does not have the economic resources needed to afford it. Finally, Mrs. Blanca Estela Velázquez Peña indicated that the legal representative of the aforementioned Institute has asked her to lift the complaint that she filed before the National Commission; a petition that she has rejected.

In the opinion of the National Commission, it has been clearly proven that the physical integrity of Mr. Daniel Velázquez Peña was affected due to deficient medical attention. Therefore, the victim and his immediate family must have any and all damages derived from this situation repaired. It should be noted that, while it is true that certain legal avenues contemplated within the Mexican legal system for the repair of damages derived from professional attributions consist in presenting cases before the pertaining legal bodies, it is also true that the non-legal system for the protection of human rights that seeks to prevent the possibility of violations against human rights attributable to a public official of the State. Recommendations filed before public bodies must include the measures that will proceed in order to assure that the fundamental rights and repair of damages suffered by victims are properly fulfilled. Therefore, all damages must be properly repaired. The National Institute of Neurology and Brain Surgery must provide Mr. Daniel Velázquez Peña with all of the medical attention that he may require and cover all expenses derived from such measures.

As a consequence, the National Commission of Human Rights issued Recommendation 21/2009, addressed to the Manager of the National Institute of Neurology and Brain Surgery, recommending the following:

FIRST. Instructions must be issued to whom it may concern so that any and all administrative proceedings necessary to repair damages to those members of the victim’s immediate family supported by the law must be fulfilled. Compensation must be provided, in virtue of considerations, as established in the Observations Chapter included within this recommendation. The Commission must be properly notified that all of the above is being fulfilled.

SECOND. The pertaining instructions must be issued in order to assure that the National Institute of Neurology and Brain Surgery provides Mr. Daniel Velázquez Peña with all of the specialized medical attention and services that he may require for life, based on the considerations proposed by this Recommendation, assuming all expenses derived from this situation.

THIRD. Any and all necessary administrative instructions must be issued in order to assure that the patients in need of anesthetic procedures under conscious sedation under the care of the Neurology and Ophthalmology Services of the National Institute of Neurology and Brain Surgery are provided with professional medical attention, so that actions as the ones responsible for this pronouncement may be avoided. The Commission must be properly notified that all of the above is being fulfilled.

FOURTH. Instructions must be issued to whom it may concern so that, in accordance to the law, the Internal Control Body of the National Institute of Neurology and Brain Surgery may initiate and determine an administrative investigation against Doctor SP2, a member of the staff of the Anesthesiology Services of the aforementioned National Institute; the medic in charge of the anesthetic procedure under conscious sedation for the surgical procedure conducted on Mr. Daniel Velázquez Peña on May 21st 2008. All of the above must be based on the contents of this Recommendation and the National Commission must be properly notified that all actions are being fulfilled.

FIFTH. Instructions must be issued to whom it may concern so that, in accordance to the law, the Internal Body of the National Institute of Neurology and Brain Surgery may initiate and determine an administrative investigation procedure against the medical staff attached to said National Institute, responsible for the medical file of Mr. Daniel Velázquez Peña, based on the fact that they failed to comply with the Official Mexican Norm NOM-168-SSA1-1998 of the medical file. The Commission must be properly notified that all of the above is being fulfilled.

SIXTH. The Agent of the Public Attorney’s Office of the Municipal Charter must be properly informed of all observations, so that the pertaining initial investigation of the facts included within the complaint is conducted. At the same time, any and all supporting documentation must be provided for correct and opportune integration of the file.

SEVENTH. Any and all administrative instructions must be issued so that personnel attached to medical staffs is properly trained in matters concerning Official Mexican Norms applicable to the Health Sector; particularly, Official Mexican Norm NOM-170-SSA1-1998, for the correct application of anesthesia, and Norm NOM-168-SSA1-1998 of the clinical file. The Commission must be properly notified that all of the above is being fulfilled.

Recommendation 22/2009

March 31st 2009

Case: Of A1

Responsible Authority: The National Institute of Safety and Social Services for Workers of the State (Spanish initials – ISSSTE)

The National Commission of Human Rights issued Recommendation 22/2009, addressed to the General Manager of ISSSTE, Miguel Ángel Yunes Linares, based on the case of a female beneficiary that became the victim of irreversible damage caused by medics attached to hospitals of the Institution located in the Federal District and Cuernavaca, Morelos. For four years, the aforementioned medics provided the victim with mistaken attention, deficient valuation and the wrong diagnostic. After detection of a tumor, the victim received inadequate treatment and extirpation of the tumor caused mutilation of the victim's right breast. However, since the tumor was allowed to spread, reconstructive surgery has become unviable.

On August 6th 2008, the National Commission received a complaint filed by the victim, who reported several violations to her fundamental rights, attributable to medical personnel of the Clinic for Automated Detection and Diagnostics (Spanish initials – CLIDDA) in México City, along with personnel of the Zonal General Hospital "Dr. Carlos Calero Elorduy" in Cuernavaca. The victim had attended the latter on several occasions, from 2004 to 2006, due to the presence of a protuberance that presented unnatural growth in her right breast. However, surgery to remove the tumor was not performed until May 31st 2007.

Pertaining investigation and analysis of existing evidence led personnel attached to the CNDH to establish violations to the protection of health, attributable to the medical staff in charge of the victim. Deficient attention provided by aforementioned medical personnel led to the loss of the victim's right breast, after she had been diagnosed with fibro-adenoma (a benign, non-cancerous tumor) on said right breast.

According to the medical opinion of members attached to the Coordination of Valuation Services of the CNDH, on June 14th 2004, the victim had been evaluated at CLIDDA, where she was diagnosed with fibrocystic mastopathy. However, no mammography was conducted. On June 23rd, the victim went to the General Hospital, where the medic in charge of her attention ignored the previous diagnosis and omitted the practice of mammalian exploration, focusing instead on a cervical problem that the patient presented.

On February 18th 2005, another medic sent the patient to the Oncology Department, after noticing a lump inside her right breast. On March 2nd, the victim went to the aforementioned department, but the medical file includes no medical note, diagnostic and treatment of said consultation whatsoever. Therefore, there is no follow up information available on the case for the rest of the year 2005.

On June 15th 2006, the Gynecology Department diagnosed the patient with a tumor, but failed to specify the medical treatment to be followed. On March 21st 2007, the patient went to the General Hospital's Emergency Room, where the doctor in charge reported that the victim complained about pain in her right breast because of the tumor. The victim was referred to the Oncology Department, where she presented herself on the following day. Nonetheless, the victim went to CLIDDA on the same day (March 21st), where she petitioned for oncology valuation, which had come late, because said procedure had to be required three years earlier, when the fibrocystic mastopathy had been detected.

In its Recommendation, the CNDH asks for the General Manager to repair the damage suffered by the victim, through the pertaining compensation, based on the institution's responsibilities and as direct consequence of the inadequate medical attention provided to the victim. In addition, the victim must be provided with medical attention and psychological support for life, in order to prevent any repercussions that she may present. The victim must also be properly valued for the necessary plastic and reconstructive surgery procedures required to install the pertaining prosthetics.

The CNDH also requires that the Internal Control Body initiates an investigation against any and all medical personnel in charge of the victim. Medical and nursing personnel must receive training for the handling of medical files, as well as to prevent, diagnostic, provide treatment, control and vigilance for cases of breast cancer epidemics. Any and all measures deemed necessary must be applied so that the protocol for pertaining studies is fulfilled, in order to integrate precise diagnostics and provide patients with high quality attention.

NATIONAL AFFAIRS

Special Report issued by the National Commission of Human Rights with regards to the juvenile group known as Emo

On March 15th, the CNHD issued a Special Report to establish that youngsters who belong to the socio-cultural group "emos" have become victims of violence and discrimination from authorities, as well as society at large. Attempts have been made against their freedom of speech, association and gathering, through the some times distorted exposure of their ideology and manners, as well as to feelings generated by rivalries with other juvenile groups and, to a lesser degree, also from a similar behavior displayed against them by some authorities.

The investigation conducted by the National Commission took into consideration information provided by Human Rights Commissions of different states, several different juvenile institutes, the Attorney General's Offices of Federal Entities and the Attorney General's Office of the Republic. Other sources were notes found in newspapers, television and radio shows, as well as several different studies conducted on the subject with regards to the main causes responsible for the generation of a vulnerable situation for young people that belong to the aforementioned group and the problems facing them and, in general, transgressions committed to their human rights.

The document, addressed to the holders of the Secretary of Government, Public Safety, Education, Labor and Social Prevision, and Social Development, the Attorney General of the Republic, as well as to the Governors of all Federal Entities and to the Holder of the Government of the Federal District, indicates that aggressions against the group known as "emos" is the product of the authorities' lack of action and participation in the provision of spaces for the liberties of every social group, which would help procure that their ideas are respected.

Likewise, all social sectors must be provided with the same opportunities for development in all fields, in order to avoid, as in this case, that one side and the other feel like they are the target of aggression simply because of their manifestation of ideas and the different aspects that they prefer, which differ to those traditionally and socially established.

The aggressiveness manifested by this group is the result of the State's failure to guarantee that rights such as access to educational, working, and athletic opportunities, as well as alternative physical spaces and the means to a life that allows young people to cover their basic needs, are provided.

The CNDH conducted an integration and analysis of file CNDH/2/2008/1213/Q, which was ratified on March 28th 2008, based on a complaint filed by the General Manager for Complaints and Guidance of the Commission of Human Rights of the Federal District, on charges of offenses conducted by the juvenile group "emos". The complaint was based on the fact that the web site called Young Power (www.poderjoven.org.mx), attached to the Mexican Institute for the Youth had published several messages that incited violence against the aforementioned community.

The complaint led to the initiation of monitoring activities on the written media, as well as radio and television. Said activities detected news about confrontations that took place in the Federal District, Colima, Chiapas, Durango, Hidalgo, Puebla, Querétaro, Tlaxcala and Yucatán. Additionally, the attacks were the result of yet another campaign, unleashed by young people through the use of flyers and the Internet, which called for other groups – self-denominated as "darkies", "gothics", "punks" and "rockers" – to rally against "emos"; a situation that led to the detention of minors as well as adults.

Through its investigation, the National Commission was able to observe that some local authorities performed discriminatory acts against the members of the aforementioned social group.

Analysis of the current situation of "emos" reveals that, even when the Mexican legal order is provided with a legislation that protects individuals from discrimination and places them in equal terms, no ideal concordance exists when confronting the legal picture to the social scene.

Therefore, the CNDH has formulated the following procedures for the holders of the Secretary of Government, Secretary of Public Safety, Secretary of Education, Secretary of Labor and Social Prevision, Secretary of Social Development, the Attorney General's Office of the Republic, as well as for the Governors of all Federal Entities and the Holder of the Government of the Federal District:

- 1.- Campaigns meant to emphasize respect to diversity must be elaborated. Said campaigns must target society at large, as well as all of its official bodies and entities. Young people must participate in the elaboration of the campaigns, in order to make their opinions heard.
- 2.- Design and application of public policies for their respective competences, specifically addressing the younger population so that contributions are made for the improvement of their life conditions, education and health, as well as for the construction and operation of physical spaces that are adequate for healthy recreational activities.
- 3.- Study plans must include all subjects related to discrimination, the ways in which said situation manifests itself, eradication mechanisms and provide information on institutions in charge of the defense and protection of equality amongst the people. In addition, the fact that younger people are entitled to human rights and obligations must be taken into consideration.
- 4.- Public safety bodies and personnel attached to Public Attorney's Offices must be properly trained on the manner in which young people must be treated, in order to avoid any and all acts of discrimination committed against the members of the different juvenile groups, whose appearance makes them the target of aggression.

INTERNATIONAL AFFAIRS

XXII Session of the International Coordination Committee of the National Human Rights Institutions (Spanish initials – CIC)

Personnel attached to the National Commission attended the XXII Session of the International Coordination Committee of the National Human Rights Institutions, conducted from March 23-27 on Geneva, Switzerland. Due to the CNDH's position as a group member, the representatives of the Commission participated in the Meeting of the CIC's Work Group on the Conference for the Durban Exam, as well as on the Regional Meeting for the Network of Human Rights Institutions of the Americas. In the latter, the CNDH presented its opinion with regards to the proposed modifications to the Statement issued by the CIC on Governance. Likewise, the CNDH participated on a parallel event on The National Human Rights Institutions and the National Preventive Mechanisms within the Frame of the Optional Protocol of the Convention Against Torture, with the presentation titled The Commission of Human Rights of Mexico as a National Prevention Mechanism against Torture.

Finally, the CNDH participated in the Workshop on the participation of National Human Rights Institutions with International Human Rights Mechanisms. During the first part of the Workshop, a segment dedicated to the best practices that National Human Rights Institutions can apply for their contributions in order to participate in the Universal Periodical Examination, a new mechanism of the Human Rights Council, the CNDH exposed the presentation The Commission of Human Rights of Mexico and the Universal Periodical Examination. During the second part of the aforementioned Workshop, the CNDH exposed the presentation titled The CNDH and Bodies created in Virtue of Treaties

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